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4 Bankruptcy Trustee

5  
6 UNITED STATES BANKRUPTCY COURT  
7 EASTERN DISTRICT OF CALIFORNIA  
8

9 In Re,

10 WALKER, JAMES A.

11 WALKER, VALERIE K.

12  
13 Debtor(s)

) Case No. 09-37260- C -7  
)  
)  
)

DCN: MHK-1

DATE: October 13, 2009

TIME: 9:30 AM

DEPT.: C  
)

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16 TRUSTEE'S NON-OPPOSITION TO MOTION TO COMPEL TRUSTEE  
17 TO ABANDON LAW PRACTICE TO DEBTORS  
18

19 THOMAS A. ACEITUNO, the duly appointed trustee in the above entitled matter, has no  
20 opposition to the motion filed herein for the following reasons:  
21

- 22 1. The Debtors herein filed a voluntary Chapter 7 bankruptcy on August 14, 2009. I  
23 have been appointed Trustee for the estate.  
24 2. I have reviewed the motion filed hereto together with the responses filed to date.  
25 While I understand the substance of the opposition, I do not agree that the debtor's  
26 law practice would have substantial value to the creditors of this estate for the  
27 following reasons:  
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- 1 a. The Debtor's law practice consists of certain tangible personal property as  
2 well as intangible assets. The tangible assets include used equipment and  
3 furnishings which would bring minimal value to the bankruptcy estate after  
4 consideration of costs of sale. There are no substantial financial assets  
5 apparent in the case.
- 6 b. The Debtor's law practice may have some intangible value relating to future  
7 work to be performed for former clients of James Walker, however, that  
8 value is limited by the controversial nature of Mr. Walker's former practice,  
9 the continuing investigation of Mr. Walker being conducted by the  
10 California Department of Justice, an ongoing investigation of Mr. Walker  
11 by the California State Bar, and other factors.
- 12 c. The "client files" maintained in Mr. Walker's law practice belong to the  
13 client, not the attorney, and are therefore not assets of the bankruptcy estate  
14 to be sold.
- 15 d. It is unclear whether intangible property of the Debtor's law practice may in  
16 part constitute "personally identifiable information" which may not be sold  
17 pursuant to Bankruptcy Code Section 363(b)(1) without the appointment of  
18 a "consumer privacy ombudsman" pursuant to Bankruptcy Code Section  
19 332.
- 20 e. No party has offered significant consideration for purchase of the assets of  
21 the Debtor's law practice.
- 22 f. No sale of the assets of the Debtor's law practice could preclude the Debtor  
23 from personally competing for the same clients.
- 24 g. I am estimating that there are substantial priority claims in the case  
25 including outstanding tax obligations and an outstanding fine owed to the  
26 State of California which total in excess of \$300,000. Therefore, in order  
27 for any recovery to be obtained by general unsecured creditors, I would  
28 need to sell or recover assets well in excess of \$400,000 to provide for any  
29

1 recovery for general unsecured creditors. Further, it is likely that the  
2 general unsecured creditor claims in the case will be in the millions of  
3 dollars. Debtor listed over 7,000 creditors in the case. If even a small  
4 percentage file actual claims, the total is likely to be excessive. Based on  
5 information obtained through telephone calls, letters and other  
6 communications, it appears likely that there are at least several hundred  
7 potential claimants, each with a claim that appears to be in the range of  
8 \$10,000 to \$20,000. If we assume that 500 such claims are filed at an  
9 average of \$10,000, the general unsecured claims base would exceed  
10 \$5,000,000. Again, for these claimants to receive any substantial recovery  
11 (such as five percent or \$500 on each claim), the estate would need to net at  
12 least \$250,000 more than the amount needed to cover priority claims. In  
13 other words, the gross recovery for the estate would have to approach one  
14 million dollars to even begin to provide a substantial recovery for general  
15 unsecured creditors. I see no chance that a sale of the Debtor's law practice  
16 would cover even a fraction of this amount.

- 17 3. The primary focus of some of the opposition to the motion herein is directed  
18 toward preventing Mr. Walker from practicing law in the future. If the allegations  
19 of misconduct against Mr. Walker are correct, I could understand their position, but  
20 I believe the bankruptcy court is not the proper forum for driving Mr. Walker from  
21 the legal profession. Mr. Walker is already under investigation by other state  
22 authorities and it appears those investigations are likely to continue. Denial of this  
23 motion will not impede those investigations.

24  
25 Respectfully submitted:

26  
27 DATE: October 8, 2009                      /s/ Thomas A. Aceituno  
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DECLARATION OF THOMAS A. ACEITUNO

I, Thomas A. Aceituno, hereby declare under penalty of perjury:

1. I am the Trustee in this case. I have reviewed all of the foregoing and it is true and correct and if called I would so testify.

DATE: October 8, 2009

/s/ Thomas A. Aceituno